

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

American Granby, Inc.,	§	
Plaintiff	§	
	§	
v.	§	Civil Action No. 5: 10-cv-01523-GTS-DEP
	§	
DAWN Industries, Inc.,	§	
Defendant	§	Jury Trial Demanded

AGREED MOTION TO DISMISS WITH PREJUDICE

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now Plaintiff AMERICAN GRANBY, INC. by and through its attorney of record to file this its Motion to Dismiss with Prejudice the above-referenced civil action, filed on December 16, 2010.

The above-referenced civil action has been resolved by compromise and settlement. As a result Plaintiff no longer wishes to pursue the litigation. Both parties respectfully request that the above-referenced civil action be dismissed, with prejudice. Attached to this Motion is the proposed Order for consideration and approval of the Court.

WHEREFORE, THE ABOVE PREMISES CONSIDERED, Plaintiff respectfully moves to dismiss the above-referenced civil action with prejudice. All attorneys' fees, expenses, and court costs related to this litigation will be paid by the party incurring same.

Plaintiff respectfully requests that an order be entered dismissing the above-referenced civil action, with prejudice.

Dated: April 13, 2011

Respectfully submitted,

s/George R. McGuire

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*Attorney for Plaintiff,
American Granby, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that all counsel of record who have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on this 13th day of April, 2011. Any other counsel of record will be served by first class U.S. mail on this same date.

s/George R. McGuire
George R. McGuire

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Civil Action No. 5: 10-cv-01523-GTS-DEP

Jury Trial Demanded

ORDER AND DISMISSAL WITH PREJUDICE

Plaintiff AMERICAN GRANBY, INC. has entered into a settlement resolving the claims pleaded in this civil action and has agreed to the entry of this Order and Dismissal with Prejudice. It is, therefore, ORDERED as follows:

1. All claims and counterclaims asserted in this action are hereby dismissed with prejudice.
2. All costs, including attorneys' fees, shall be paid by the party incurring same.
3. All relief not expressly granted herein is denied.
4. The United States District Court for the Northern District of New York shall maintain continuing jurisdiction over this matter for the purposes of enforcing and interpreting the terms of the Settlement Agreement should it be necessary.

Dated: April __, 2011

SO ORDERED:

IT IS SO ORDERED:



David E. Peebles
U.S. Magistrate Judge

Dated: April 14, 2011